

REMARKS

The present application was filed on February 28, 2002 with claims 1-22. Claims 1-22 remain pending. Claims 1, 16, 17, 21 and 22 are the pending independent claims.

Claims 1-10 and 18-22 stand rejected under 35 U.S.C. §103(a) over Patent No. 5,712,851 (hereinafter “Nguyen”) in view of U.S. Patent No. 6,477,168 (hereinafter “Delp”).

Claims 11-15 are indicated as containing allowable subject matter but objected to as being dependent upon a rejected base claim.

Claims 16 and 17 are allowed.

Claim 22 is objected to due to an informality.

In this response, Applicants traverse the §103(a) rejection, amend claims 11 and 22, and request reconsideration in light of the amendments above and the remarks below.

As a preliminary matter, Applicants note that, although not expressly indicated in the present Office Action, the Examiner has reopened prosecution to enter a new ground of rejection responsive to the Notice of Appeal and Appeal Brief dated April 30, 2007. Although Applicants have elected to continue prosecution rather than to reinstate the present appeal, because prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, Applicants expressly reserve the right to apply the fee paid for the previous Notice of Appeal and Appeal Brief to any later appeal on the same application. See MPEP §§ 1207.04 and 1208.02; see also 35 U.S.C. §134(a) (emphasis added) (“An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.”)

Applicants have rewritten claim 11 in independent form including all limitations of base claim 1. Claims 12-15 are dependent from claim 11.

Applicants respectfully traverse the objection to claim 22. Independent claim 22 is directed to an article of manufacture comprising a machine-readable storage medium storing one or more software programs that, when executed, perform one or more steps producing a concrete, useful, and tangible result. Applicants respectfully submit that, rather than containing an informality, claim 22 defines statutory subject matter. See, e.g., In re Beauregard, 53 F.3d 1583; 35 USPQ2d 1383 (Fed. Cir. 1995); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Notwithstanding the traversal, Applicants have amended independent claim 22

without prejudice, solely in order to expedite prosecution of the application by conforming to the subjective preference of the Examiner.

With regard to the §103(a) rejection, Applicants respectfully submit that the Nguyen and Delp references fail to teach or suggest the limitations of independent claim 1. For example, claim 1 recites “moving at least one entry from a first location within the at least one time slot table to a second location within the at least one time slot table.” An illustrative embodiment of an arrangement falling within this limitation is described in the present specification at, for example, page 13, lines 21-23 (“Once FP and AP have separated, every time AP encounters a valid element in a time slot, then that element is written to the location pointed to by FP, deleted from the location pointed to by AP, and both FP and AP are incremented by one time slot.”) and page 14, lines 22-24 (“[I]t is apparent from the foregoing example that transmission elements may move within the time slot table. As described above, this occurs when AP has separated from FP and AP encounters a valid element in its corresponding time slot.”) See also FIG. 7, which shows element Q5 in the sixth time slot of the exemplary time slot table at T=5 and in the fourth slot of the exemplary time slot table at T=6.

In formulating the present rejection, the Examiner concedes that Nguyen fails to disclose moving at least one entry from a first location within the at least one time slot table to a second location within the at least one time slot table. However, the Examiner contends that block 708 of FIG. 7 of Delp discloses moving at least one entry from a first location within the at least one time slot table to a second location within the at least one time slot table.

Applicant respectfully disagrees. Block 708 of FIG. 7 is labeled “MOVE CURRENT TIME SLOT FORWARD 1 TIME SLOT 708,” and described in Delp at column 7, lines 11-15:

When the current time slot is empty, then the current time is compared with the current time slot as indicated at a decision block 706. If the current time is greater than the current time slot, then the current time slot is moved forward one time slot as indicated at a block 708.

Moving a current time slot forward does not entail to moving an entry from one location within a time slot table to another location, but rather merely indicates incrementing a variable. See Delp at column 5, lines 54-56, and at column 6, lines 4-12 (emphasis added):

Cell/frame scheduler 102 keeps track of the current time of the system by a **global variable, curr_slot** which equals the current time in slots. . .

A basic scheduling algorithm of cell/frame scheduler 102 scans forward in the timing wheel 400 with a limited look ahead, L , from the current time `curr_slot`. If it finds a first connection, say connection (i) with an LCD enqueued on the timing wheel (TW) within that range, i.e., $(qslot(i) - curr_slot) < L$, then cell/frame scheduler 102: a) sends out this cell or frame; b) **increments the curr_slot**; and c) computes the next time that this LCD has to be enqueued on the timing wheel 400 or 402.

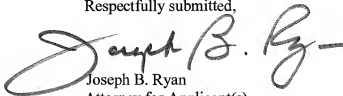
Thus, the relied-upon portion of Delp fails to teach or suggest the limitation of claim 1 directed to moving at least one entry from a first location within the at least one time slot table to a second location within the at least one time slot table. As such, Delp fails to remedy the fundamental deficiencies of Nguyen so as to reach the limitations of claim 1.

Independent claims 21 and 22 include limitations similar to those of independent claim 1 are thus believed allowable for at least the reasons identified above with regard to claim 1.

Dependent claims 2-20 are believed allowable for at least the reasons identified above with regard to claim 1. Furthermore, one or more of these claims are believed to define additional patentable subject matter in their own right.

In view of the foregoing, Applicants believe that claims 1-22 are in condition for allowance, and respectfully request the withdrawal of all rejections and objections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph B. Ryan", followed by a horizontal line.

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